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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY



June 16, 1999

**Oral Presentation – Ex Parte Notice**

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 – 12<sup>th</sup> Street, SW – TW – A325  
Washington, DC 20554

Re: **CC Docket No. 96-45**

Dear Ms. Salas:

Please be advised that on June 15, 1999, Mary Henze, Marv Bailey, Kenneth Cartmell, Jim Lambertson, Porter Childers and Bill Maher, representing the United States Telephone Association (USTA), met with Lisa Zaina, Irene Flannery, and Katherine Schroder of the Federal Communications Commission's Common Carrier Bureau.

The purpose of the meeting was to express opposition to the pending petition for reconsideration filed by the Washington Department of Information Services in response to the Fourth Order on Reconsideration in the above-referenced docket.

The attached material was the basis for the presentation. In particular, sources of funding for the Washington DIS K-20 network were discussed. According to the Washington state web page, the state biennial budget passed in the Washington legislature's 1999 session "provided DIS with \$7.4 million to complete the network's second and largest phase – final installations are expected this summer – and \$29.4 million for network operation and support."<sup>1</sup> Moreover, since 1996, the Washington legislature has appropriated \$62.3 million to construct the network.<sup>2</sup>

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<sup>1</sup> *Washington Legislature advances state government's digital revolution* (May 24, 1999), <http://www.wa.gov/dis/techcentral/feature87.htm> at 1.

<sup>2</sup> *See Access Washington: K-20 Network*, <http://www.wa.gov/K20/> at 2.

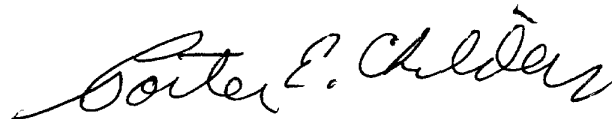
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Pursuant to section 1.1206 of the Commission's rules, we hereby submit two copies of this notice and attached presentation materials for the above referenced proceeding, for inclusion in the public record. Please contact me if you have questions.

Respectfully Submitted,



Porter E. Childers  
Executive Director of  
Legal and Regulatory Affairs

Enclosures

cc: Hon. William E. Kennard	Suzanne Tetreault	Sarah Whitesell
Hon. Susan Ness	Debra Weiner	Kevin J. Martin
Hon. Michael K. Powell	Kathryn C. Brown	Lawrence Strickling
Hon. Harold Furchtgott-Roth	Dorothy Atwood	Lisa Zaina
Hon. Gloria Tristani	Linda Kinney	Irene Flannery
Christopher Wright	Kyle Dixon	Katherine Schroder

**THE CURRENT UNIVERSAL SERVICE  
TREATMENT OF THE WASHINGTON  
DEPARTMENT OF INFORMATION SERVICES  
SHOULD BE RETAINED**

**UNITED STATES TELEPHONE ASSOCIATION  
EX PARTE PRESENTATION  
CC DOCKET NO. 96-45**

**JUNE 15, 1999**

- I. The Commission Should Reaffirm the Fourth Reconsideration Order on Universal Service As It Applies To The Washington DIS Network.**
  - A. As a state government network, the Washington network is not a "telecommunications carrier" eligible for direct "schools and libraries" support under Section 254(h)(1)(B) of the 1996 Act.**
  - B. The Washington network does not enhance access to "advanced telecommunications services" pursuant to Section 254(h)(2)(A).**
  - C. The current treatment of the Washington network is competitively neutral and will promote cost-effective provision of services to schools and libraries.**

## **II. The Fourth Reconsideration Order Correctly Provides Universal Service Support For The Washington DIS Network**

- A. State government networks are eligible as consortia to pass along discounts when procuring supported telecommunications (4th Reconsideration Order para. 183).**
- B. State networks may receive reimbursement for providing internal connections and Internet access (4th Reconsideration Order para. 190).**
- C. The Washington DIS network is not required to contribute to universal service.**

**III. Following The Iowa Communications Network (ICN) Precedent, The Washington DIS Network Is Not A Telecommunications Carrier**

- A. The precedent of the ICN Declaratory Ruling of February 18, 1999 governs Washington DIS.**
- B. Washington DIS does not provide telecommunications "to the public or such classes of users as to be effectively available directly to the public."**
  - The network is limited to Washington state and local governmental agencies, including public schools and libraries.**

- C. Washington DIS has adopted conditions of use that restrict network connections and use to institutions authorized by Washington statute and approved by a policy committee.**
- D. The Commission has no authority to make a "regulatory exception" to or "waive" the statutory classification of "telecommunications carrier" for Washington DIS.**
- E. The current rules provide market incentives for Washington DIS to minimize administrative costs and retain customers.**

#### **IV. Washington DIS Does Not Uniquely Enhance Access To Advanced Telecommunications Services**

- A. Washington's request is an untimely petition for reconsideration of the Universal Service Order of May 8, 1997.**
- B. The Commission's interpretation of enhancing access to advanced services focuses on Internet access and internal connections (now under judicial review).**
- C. "Advanced" treatment could set a broad, costly precedent, not contemplated in the FCC's Report on Advanced Telecommunications Capability (para. 84).**



**D. The services listed by Washington DIS cannot be considered as "advanced" for universal service purposes or as enhancing access to such services:**

- ISDN/Intranet**
- Service integration and bundling**
- Other administrative services**

**V. Washington DIS Should Not Receive Special Direct Support For Its Administrative Costs**

- A. Such support would provide no incentives to control maintenance, administrative, and marketing costs.**
- B. The Universal Service program was intended to support schools and libraries, not state administrative costs and investment decisions.**

**VI. Washington DIS Is Not Uniquely Burdened By Accounting Requirements For Consortia**

## **VII. Granting The Washington DIS Petition Would Not Be Competitively Neutral**

- A. Unlike Washington DIS, carriers must contribute to universal service.**
- B. It would not be competitively neutral for these carriers to support a state network that competes directly with them but does not contribute to universal service.**
- C. Carriers in Washington state have paid taxes to support Washington DIS.**

**D. Washington DIS has competitive advantages in serving eligible users because of its ability to:**

- buy large volumes of telecommunications services at advantageous rates from telecommunications carriers and**
- tailor its offerings to a exclusive class of customers.**
- operate without regulation.**

**VIII. Washington's Comparative Cost Examples Do Not Show That Reconsideration Would Result in USF Savings.**

**A. The examples wrongly assume that Washington DIS will maintain a constant level of administrative costs under the current rules:**

- The current rules provide Washington DIS with strong incentives to operate more efficiently.**
- If the petition is granted, Washington DIS would have no incentives to reduce administrative costs.**

**B. The examples do not make meaningful comparisons:**

- They do not compare Washington DIS's prices with those of a similarly sized volume-purchasing arrangement.**
- Instead, they compare Washington DIS prices with "carrier-direct" prices that a single school district would pay.**

## **IX. Conclusion**

- A. The Commission should deny the Washington DIS petition for reconsideration.**
- B. There is no basis for providing special treatment for Washington DIS contrary to the ICN Declaratory Ruling.**
- C. The Fourth Reconsideration Order as applied to Washington DIS promotes cost-effective provision of services and competitive neutrality.**
- D. Granting the petition would have negative precedential effects contrary to the Advanced Telecom Report.**